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Subject: Case 09/718,595

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Beatriz Prieto,

In response to our short conversation about case 09/718,595, here, per your request, are the particular sections of the applied references that I believe make it clear that these references do not teach the patentable features or our claimed invention.

Just as an aid for discussion, here is claim 16:

16. (Amended) A set top box, comprising;

a broadband receiver to receive, in real time, multimedia information including a displayable data stream constituting data including future programming and at least one command associated with a displayable indicia;

tuner/demultiplexer circuitry to separate in real time the displayable data stream from the multimedia information, and to form a display from the displayable data stream, the display formed including the displayable indicia; and

user-operable apparatus to select the displayable indicia;

characterized in that, in response to selecting the displayable indicia, the command associated with the selected indicia is stored and executed at a future point in time.

The first positive limitation of this claim states "a broadband receiver to receive, in real time, multimedia information including a displayable datastream constituting data including future programming and at least one command associated with a displayable indicia". Quite clearly, the displayable data stream received in real time includes at least one command associated with a displayable indicia. Therefore, the command must be associated with the displayable indicia at the head end from whence the multimedia information is sent, otherwise it could not be a part of the displayable data stream.

(1)

Our specification, beginning at page 6, at the last paragraph on the page, and continuing on pages, 7, 8, and through the first paragraph on page 9, describes in great detail how a database at the head end is prepared with, in one embodiment, web pages having special tags that constitute commands, and how the database is scanned to upload the especially marked items and include them in the multimedia information transmitted in real time. On page 7 it is described that the multimedia information may be provided by programming service providers, and is thus program schedule information. We did not limit our claim to this embodiment, because we are entitled to a broader recitation. On page 8 the command nature of tags associated with displayable indicia is described in detail, and that the indicia may be any kind of indicia in the display, such as text, icons, shapes, or even a portion of a background displayed.

(2) This is what we consider to be the patentable limitations; that the displayable indicia come to the set top box as a part of the program schedule and already associated with commands, such that, when a user selects an indicia, the command is executed.

Now, in respect to Lawler: Fig. 1 and accompanying description in columns 3, 4 and half of column 5 describe the head end in minute detail, and what it does, including providing program schedule information. Nowhere in this description is there any teaching whatsoever of associating displayable indicia with commands and streaming same to the client end as a part of the schedule information. To anticipate our claimed limitations the reference has to teach what we claim, and we claim receiving multimedia information including a displayable data stream constituting data including future programming and at least one command associated with a displayable indicia. Lawler completely fails to teach this.

Now, using recording a program as an example, which follows the course taken in the examination thus far, we can follow exactly what Lawler teaches relative to recording. In column 7, beginning at line 19 Lawler describes his display screen 78 of the program time guide. At lines 27 and 28 it states that the station controller can use information stored in the memory system 60. The balance of column 7, 8 and 9 describe in minute detail all of the elements of the displayed guide, but do not describe anywhere any indicia pre-associated with a command.

At line 34 of column 9 Lawler begins description of the flow diagram of Fig. 4, and describes the user selecting different ones of the tiles displayed as programs. At column 10, line 30 it is explained that the system monitors to see if an action key is pressed. If so, the system displays the Options menu shown in Fig. 5.

Here is where the difficulty in this examination is readily apparent. It is our contention that the options menu is a stored menu that is displayed in response to the action key, which then allows the user to select a command, such as Record. The teaching of Lawler does not specifically say that the Record indicia is a stored indicia, rather than an indicia associated with a command received from the head end in real time. It is perfectly clear however, that the display received from the head end in Lawler is that display 78 shown in Fig. 3; and to display the Options menu, one must press an Action key on the user input apparatus. Then to record the program, or schedule it for future recording, one must further select the Record button in the options menu.

In our claimed invention, as opposed to Lawler, the indicia associated with a command to record, for example, is in the displayed program schedule (and is claimed as such), and selecting the indicia executes the Record command. For example, we may include an "R" indicia in each program tile, pre-associated with a command to record the associated program. Selecting the "R" indicia in the display initiates recording. Because we send the indicia pre-associated with the Record command from the head end in real time, and display it with the program schedule information, it may be selected directly and the command executed, without the necessity, as in Lawler, to call up a separately-stored menu system, and then to select a Record command.

We do not believe that our claims should be rejected over a reference because the reference does not specifically preclude the limitations of our claim. It is true that Lawler does not state succinctly that his menus are locally stored, even though his teaching makes it clear that they must be. The fact that he does not state that he does not pre-associate commands at the head end with indicia is surely not enough to justify an assumption that he does. If he did as we claim, the secondary menu system would no longer be needed, as it is not needed in our system.

I do not see what more we can do. It is abundantly clear that Lawler simply does not teach our patentable limitations. The 103 rejection is therefore clearly not a prima facie rejection and the claims should be allowed.

Neither Eyer nor any other of the references cited, including Lawler, teach associating commands with indicia at the head end, and, since all of the claims are rejected over Lawler, or with Lawler as a primary reference, the claims are clearly all patentable.

If the above is not sufficient for an allowance, we definitely need to talk further. It is time to allow the case, or to show exactly where in any one of the many, many references commands associated with diplayable indicia are provided in real time in a program guide, such that selecting the indicia in the displayed guide executes the associated command.

Best, Don Boys